

The State of New York Ex Rel Vinod Khurana et al v. Spherion Corp, 1:15-cv-06605-JFK-FM
Sealed Exhibit to ECF Doc. 53, Declaration of Sabita Krishnan

Exhibit R

Dec 22, 2010 Interview Notes
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DOI 1009006

12/22/10 Interview of Vinod Khurana – 12/22/10 Transcription of ARH Notes by ARH

CITY OF NEW YORK
DEPARTMENT OF INVESTIGATION

To: File

From: Andréa R. Hecht

Date: December 22, 2010

DOI# 1009006 – 12/22/10 Interview Vinod Khurana

Transcription of Interview Notes

Vinod Khurana contacted DOI on December 22, 2010 stating that he had information regarding City Time. VK was interviewed at DOI on the same date. The interview lasted from 12:00pm to 14:36pm. Present at the interview were Michael Siller, Roxanne Harmon and Andrea Hecht. AH took notes during the interview. Following is a transcription of those notes.

VK is a Canadian citizen residing in Jersey City. He works in the United States pursuant to a Trade Nafta Visa. His phone numbers are 201-704-0834 and 212-276-8819. VK has a degree in computer science from the University of Toronto and a background in software development. VK currently is employed at Morgan Stanley (One New York Plaza) as a load performance engineer.

VK was a worked on the City Time project as a quality assurance person from 2004/2005 to May 2007, when he was terminated. VK was a subcontractor to SPHERION.

Why VK came to DOI today. VK had a traumatic experience under Mark Mazer (“MM”) and Scott Berger (“SCOTT”). His original job was to write code and scripts to determine whether the City Time application was performing according to design and to test functionality using an automation program called HP Winrunner or another application called QTP. VK gave a simple example of what his work entailed. To test whether the login procedure worked and how long it took to go through it, he would write a script to simulate the login process. What he ended up doing was different.

VK’s first work location was at SPHERION’s Broad Street Office for the first 6-8 months. He was there with two other quality assurance consultants for the City Time project, Mohamed Hashem and Ken [cannot recall last name]. These three were the QA team assembled to present solutions for automation, function testing and load performance testing.

The application was not ready when VK came on board so there was nothing to test. So for five months he and the other two consultants sat at the SPHERION office doing nothing. They were paid by the hour for doing nothing. OPA requested nothing from them during that time. VK said they were on standby and OPA paid for it and knew it was paying for the three consultants to be on standby. He knows OPA knew because he attended meetings. VK has never been in a job

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where he twiddled his thumbs for 5 months. He and the other 2 consultants were submitting time sheets listing how many hours they worked. OPA (Sarah Gurjal and Farhana) signed those time sheets. The time sheets did not describe any work done.

Because VK was bored doing nothing he started doing simulated load performance testing. The consultants had been told that the City Time application would have to support 135,000 users. VK started writing a report on load performance. He thought it would be value added. He spent three months writing the report.

VK presented his report to Joel Bondy, Farhana and Sarah Gurjal, none of whom had heard of load performance testing. The presentation was at a downtown office where JB had his office [1 Centre Street.] The date of the meeting was just before FISA provided space for City Time consultants to work in. JB was impressed. JB said at the meeting that we will do load performance testing. This was at VK's suggestion.

About 8 months after VK started he and the two other SPHERION consultants on his team got office space on the first floor of the FISA building on 30-something street. The application was still not available for functional and load testing. VK and Hashem sat next to Gurjal and Farhana doing manual testing.

Then SAIC came forward and said we are taking over functional automation and scripting from SPHERION and they started doing it. VK asked about the qualifications of SAIC's staff to do the work. VK had the impression that we (he and the other 2 SPHERION consultants) as independent auditors on City Time should be informed as to the qualifications of SAIC to do automation. Mark and Scott were not yet involved. Sarah Gurjal, Farhana and JB were VK's only contacts at this time. VK thinks JB must have approved giving SAIC the project that was formerly assigned to SPHERION.

VK complained to Ken from SPHERION that this was not right. Mohammed had never done any functional automation. VK complained to Ken that that Mohammed did not have the qualifications to do automation testing. SAIC was bringing people in who were its own employees and through TECHNODYNE to do work that SPHERION was contracted to do. The only reason could have been to give SAIC the income.

VK went to Ken who said he was told by SPHERION's Howard Cohen that "don't ask." Normally you have a manual tester report with cases that are then given to automation testers. Here, there wasn't even a manual test report so he can't understand how SAIC could have been doing automation testing.

VK then requested a separated environment to do load testing. SAIC owned the rack and the computers and were operating the machines in FISA's control room. VK needed one main master console to connect to the SAIC hardware. You needed Load Runner to do it. It took about 3 weeks to get a license. So VK sat for another 3 weeks doing nothing while waiting for the license and the installation of the hardware.

There are a lot of SPHERION consultants who were unfairly dropped in January 2010.

VK started scripting. The first set was for FISA, which was the first agency for City Time. VK used C language. Load Runner is the standard for running load performance tests in Fortune 500

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companies.

VK took a first shot at doing a very simple test to log in and out with one single user. There was no SLA – a defined expectation for how long it should take for pages to load. VK asked Mike Fayerman, Gurjal and Farhana if there were SLAs and they said there were none.

VK met with Fayerman and a tall guy from SAIC who was setting up the load testing [environment?]. The tall guy said SAIC wanted to take over load testing. VK asked if SAIC had ever done this. SAIC said no.

For 5 years that City Time was in development no load testing had been done. The standard is to start load testing of the application at the beginning of development. SAIC was told that it could not have load testing. Ken got this information from Cohen who communicated with Sarah Gurjal and JB.

In approximately November-December 2005 VK ran a single-user login test. It took 5 seconds. This was too long. The industry standard is: 3 seconds or less = acceptable; 5 seconds or more = red flag. The login was taking about 5.8 seconds. This worked VK that with just one user . . . [system was so slow.]

What might be the reasons for the slowness? How the code was written (SQL), the hardware environment (servers and wires) not configured properly. VK and team were worrying that they were getting 5 plus seconds in a LAN environment instead of a broad network.

Did VK believe that the system underperformance was deliberate by SAIC? With a 5-second response time, as you added load the response time got worse and worse. So VK did a test with 50 users hitting the time sheet function all at once. The system crashed. After 5 years of development. VK took it down to 30 – it broke again. At 20 users it worked but it took 7-9 seconds. At FISA the goal was to have up to 1,500 users on the system.

VK did not get past 20, so he took this to SCOTT and said this application sucks. SCOTT said ok. VK told him response time was 8 seconds for 20 users.

SCOTT called a meeting with JB, Mazer, Sarah Gurjal and Mike Fayerman at the FISA building, 1st Floor meeting room. He recalls exactly who sat where. He gave the bad news and said there was a need to improve. They weren't "impressed" especially Fayerman and the tall guy. They did not like the numbers and were not happy to hear about this. The meeting lasted 15 minutes. [As it ended] Mark said stay here. JB, Mark and Scott sat and let Sarah go. Mark said "we know this application is going to fail." This was on 12/2/05. JB kept quiet. VK first thought was are they serious about getting the application rolled out?

VK made connections with FISA. He met Sue Matteo [so?] who reported to the Executive Director of FISA. Sue had Rajiv under her. Sue and Rajiv would approach VK because they (FISA) were the guinea pigs [for the City Time project] asking how is the performance. VK said the truth – that it can't support more than 20 users. Sue said she was not surprised.

At the meeting with Mark, Scott and JB Mark was hostile. He always used the "F" work frequently. VK didn't dare question Mark. JB just sat quietly.

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VK met with Sue and Rajiv before the meeting and after the meeting. FISA did not want OPA being in charge of City Time. In 12/05 SAIC claimed that City Time was ready to roll out to FISA. FISA was concerned because it learned that it could not support more than 20 people [users]. VK can't say it was deliberate mis-design by SAIC. As a software developer he he would have expected Fayerman to say "we're going to work on it."

SCOTT noticed that Sue and Rajiv were going to VK to inquire about the progress of the application. SCOTT asked VK why they were coming to him. SCOTT said next time tell them to come to me. [VK told Sue and Rajiv this.] Sue and Rajib then asked VK to meet with FISA's Executive VP. They asked him directly: can you explain what is the performance of the application. VK said it won't support more than 20 users in its current form. OPA and FISA then had meetings and arguments.

A couple of days later SCOTT met VK in the hall and said "I don't want you talking to FISA." Less than a week later Howard Cohen from SPHERION said that SCOTT was thinking of terminating your contract. VK could not figure out who he was reporting to at OPA – he viewed FISA as his client [because FISA was going to be the end user of City Time.] VK asked Howard if he should speak to SCOTT about this and Howard said would be good idea. SCOTT had moved VK into an office next to Scott's office which was shared with Mark.

VK went to Scott and said he needed to chat. Told Scott he was finding a limit of 20 users, certainly not 1,500. He said to Scott all I did was give you the results I found. I repeated the test several times. This should not result in terminating my contract.

FISA control center was not accessible by remote to VK. VK used a flash drive [to get the test data from there] and then made the reports. Four days in a row he did reports and he gave to Scott. Scott said I'll talk to Mark about not terminating the contract.

Then Howard came in and said your contract is extended. VK was allowed to continue load testing. But Scott said we're moving load testing to SAIC and you will assist SAIC. SAIC was allowed to hire external load performance tester. VK was told by Scott to participate in interviews of load performance candidates. The first interview was Jeff Boldie in Florida. The guy talked for half hour and sounded brilliant. VK said he needed to speak with him in person because he had to see if he was reading off a paper. Scott said no.

Jeff was hired. He started running tests. He claimed the scripts [that VK had written] were wrong and claimed he got up to 35 users with modifications to the script. VK said that we need 1,500 – 30-50 is no good. Jeff said – performance of this application sucks.

Jeff and VK were running load tests around the clock. One time VK walked into the control room and tried to log in. His access to the console was denied. Jeff said this is from Fayerman, that you no longer have responsibility for running reports. Jeff said his orders were from Fayerman. Fayerman signed Jeff's time sheets.

Jeff did a lot of work for SAIC all over the world as performance load tester. [He had just finished something at the China Olympics.] VK was told he would now just be writing scripts to give to Jeff and Jeff would migrate the scripts to the console with a flash drive and do reports.

VK told Sarah and Farhana about this. They were afraid to say anything because JB was their

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supervisor.

Jeff became the presenter of load performance tests to FISA. In the room would be Jeff, Mike Fayerman, JB, Sue and Rajiv and Scott. [Meetings were] at least once a week a bit after 2/06.

Sue and Rajiv came to VK and said they were just told the application could support 1,200 users. VK asked Jeff if it really did. Jeff said he applied "lipstick service" – make report look like end-user wants it to look. Jeff said the tool is in the load performance program – you can put some users "to sleep" while test is running, but final report will include "sleeping users" in final results without mentioning that they were asleep.

Sue and Rajiv said to VK – this [the Jeff report that 1,200 users could be supported] is bullshit. VK said he could not comment because he no longer had access to the console. Sue and Rajiv were shocked.

Jeff told VK there were pacing parameters and a think time and you could manipulate these to massage results. Jeff could increase sleep time to long periods for many users.

OPA and FISA had battle over load performance. Rajiv quit in disgust saying "I give up."

FISA complained about performance as soon as City Time implementation started.

Then VK's group move out. [?]

MS said that the application now works and there haven't been slowness issues.

Regarding the Manual Functional Testing Group.

It began at the FISA building. All testers were from SPHERION. Then 2 new girls came – Julia a Russian and a Chinese girl with a name starting in "M." – from DAS. Farhana oversaw them. Scott came by and asked which manual tester from SPHERION would be a good team lead. VK said Mahesh, who then became team lead.

Then another two people came from DAS – Archana and Priya.

Around this time there were rumors among consultants starting that DAS was run by Mark's wife. Then rumor started that there are kickbacks going on among management. Fayerman, Scott and Mark were always stuck together as glue at FISA and then at 31st Street, though Mark was on the 10th floor at W. 31st Street. Scott and Fayerman would always be meeting [together]. Rumors became that DAS owned by Mazer and DAS was paying kickbacks to JB, Fayerman and Scott.

Then the OT business started. There were weekly releases and OT for all of them. Usually [normal projects] you would see releases once a month or so. There was a lot of OT. Saw Jeff's time sheets – sometimes saw 80/hrs per week. Scott would say I want you in on Saturdays and Sundays. Scott signed off on the time sheets.

Then Scott assigned to VK an assistant who was another DAS person – Mohammed. He had no

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load test experience and could not code. VK had not asked for him. VK used him to cut/paste. Mohamed was gone in 3 months.

In about latter part of 2006 the City Time consultants and staff were moved to West 31st Street. VK was on the 9th floor. Jeff said he wanted to work from Florida because he had better taxes there. Fayerman said OK. Jeff started working remotely from Florida. VK would send Jeff scripts remotely in Zip files.

The functional automation was taken from SAIC and given back to SPHERION. Scott hired 3 people from scratch: Reka, a Russian guy (left after 6 months) and another Russian guy who left soon. The two Russian guys had created a model to simulate a user navigating the application. Reka was left with a mess when the 2 guys left. Then Mahesh moved from manual testing to automated. He became Reka's supervisor and the Russians. One Russian left because he did not want to be supervised by a non-technical person (Mahesh). VK advised and helped Reka and Mahesh.

Then one day in 06 Scott introduced 2 guys to VK as load testing assistants -- Abu and Prashant – as people who would do load performance testing. Then VK asked the 2 individuals which agency they came from and both said PRIMEVIEW. This is the latter part of 2006, e.g., August. Scott told VK to train them. Prashant was a data entry clerk from DOIIT (as consultant) with no load testing experience. No way VK could train because it takes 2-3 years to train [in load testing.] In the first month the group was assigned to rescript all agencies – there were 5 agencies and 5 scripts each, for total of 25 scripts. VK told Prashant and Abu to each do one set of 5. VK took the 3 other sets. Prashant did not even know how to open the Editor in the program. Abu had problems with real estate in 2007 (he had buildings and rentals) and was on the phone all day with the real estate problems or would leave and come back later. For four months this went on. VK emailed Scott that Prashant was not a load tester and that Abu was on other business [his personal real estate business] and that neither of them could be of any assistance [to VK.] Communications with Scott had started breaking down at the FISA location.

Once the operation was moved to W. 31st St. Sarah and Farhana were no longer in the picture, i.e. not at the meetings every week for testing. At this time Scott and Mark had taken charge. They were on 9, so was VK. On the 9th floor never saw an OPA employee – there was a wall that [separated the consultant space from employee space] and Sarah and Farhana were behind the wall.

At that time VK did not share concerns with anyone because there was no one to approach at OPA and the rumors of kickbacks were that they were to management. VK made a report to DOI after he was terminated in May 2007 and before starting at his next job at Morgan Stanley. He emailed from vinodkhurana2@comcast.net to the email address provided on DOI's website. VK said his email said that DOI should investigate City Time. Somebody sent back an email within 2 days asking him to contact them. VK stopped. Then he changed cable from Comcast to FIOS and lost the Comcast email address. VK did not then have hard facts. But he stayed in touch with all the consultants and when he left 8 agencies (small ones) were done. Mark and Scott were pushing doing implementation on small agencies because hard to do big agencies.

Scott ignored VK's email as far as he knows.

JB asked for Jeff to return from Florida because it looks bad to have a consultant out of state who

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has a bill rate of \$120 when performance was an issue. Jeff told JB that it wasn't fair because Constantin "Cristi" Stanca, the team lead for SAIC developers on City Time, was in Boston for 2 years doing a PhD while being the SAIC team lead on the City Time project. Stanca returned from Boston about January 2007 to NY. Another guy was the architect of hardware solutions and software design for SAIC. Bill rate was \$12-150/hr. He said he wanted to move to Vancouver because with wife and 3 kids could not afford NY. SAIC allowed him.

SAIC told Jeff to return. Jeff refused. SAIC went to find another load performance person. Fayerman asked VK to interview Jeff's replacement. (VK was in meeting with Cristi, Fayerman, Ed Lucas [where subject was discussed]. Lucas had just come from SPHERION to manage load testing, i.e., VK, Prashant and Abu. Mahesh was overseeing Reka and the 2 Russian guys.)

VK and Ed did interviews with Cristi and Fayerman. Two candidates: Sanjay a 27-year old ("Sanjay Jr.") was hired after a 20 minutes interview by SAIC. Then VK asked Cristi if SAIC was firing Jeff. Cristi denied it. VK asked Jeff is knew he was being replaced. Jeff said he didn't know about it. Jeff then called VK and said SAIC terminated his contract for City Time.

Sanjay Jr. was not well versed on load testing. Scott then moved VK to Functional Automation team with Mahesh. Scott then goes to SPHERION and asks for Senior Load Tester. He brought in Sanjay in his 40s ("Sanjay Sr.").

Someone then arranged that Sanjay Jr. (for SAIC) would be the team lead for the SPHERION team on load testing. [SAIC would be supervising the SPHERION people who were doing QA on SAIC's work.] Farhana told Sanjay Sr. that he was replacing VK on load performance. (Sanjay Sr. had been interviewed 9 months prior.)

VK then found bad coding on the automation side. Sanjay Sr. asked Prashant to write scripts. Prashant said he could not do it because didn't know how. So Sanjay Sr. did it. Went to VK and complained about bad performance. VK told him not to mention it because it would get him fired. Sanjay Sr. had a habit of being outspoken. Sanjay Sr. took bad performance results to Farhana in about Feb-March 2007. VK told him not to.

May 07 VK was locked out of his remote access from home. SPHERION's Howard called him to say don't report to work on Monday. VK called Mahesh when he could not log in on Saturday. Mahesh said he could not reveal. Mahesh was there to the end of 2007.

Mahesh took reports [with bad performance results] to Scott and was terminated. Terminations were initiated by Mark.

Persons that may be possible witnesses that VK has been in touch with since the City Time scandal broke last week: Sanjay Sr., Mohammed Hashem (does not want to get involved), Prashant from SAIC (732-921-6446) (different than the other Prashant from SPHERION), Mahesh Sharma, Art Donnelly.

Art Donnelly was at SPHERION. He uncovered something too. Art was brought in to audit the functional side. Art used to go to Vinod and ask if performance is still "bad." Art saw a screen with a time sheet from the City Time program but with a different logo – a Utility company in Virginia. Art then thought SAIC was trying to sell City Time to other clients while developing it under the OPA contract.

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VK said to Art not to go to Mark or Scott. Told him to go to Joel Bondy. Art went to Joel Bondy and 2 days later was terminated.

Circumstances that led VK to sense that there was corruption, kickbacks etc.:

- Scott was forcing unqualified consultants on the SPHERION consultants
- People were showing up from DAS and PRIMEVIEW which were not on the preferred City vendor list so there was suspicion of kickbacks because how else would they have the business
- People were getting fired when there too long or raise issues

Jeff was upset when he was fired. VK asked him to tell VK the truth about how he got the 1,200 users results – Jeff said: “I fudged the numbers.” Right after this conversation with Jeff VK felt he had the pieces and he published a piece on *cnnireport* on January 31, 2009.

VK was contacted by Juan Gonzalez [after 12/15?]. VK then spoke to Morgan Stanley's HR/Compliance. They instructed him not to initiate contact with press. VK also advised Morgan Stanley that the City Time matter was shy Gonzalez was calling him and also advised Morgan Stanley that he had a flash drive that he wanted to turn over to authorities. VK claimed that he did not tell Morgan Stanley that he was coming to DOI.

VK gave DOI a flash drive which he said had Jeff's and VK's reports on load performance testing including the response-time reports. The files are in Excel, Microsoft Word and Load Runner.

The HR contact at Morgan Stanley is Vanessa Black. VK will provide her phone number to Mike Siller.

=====End of Transcription=====